



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

AUDIT SERVICES  
CITIZENS PLAZA BUILDING  
400 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1403  
TELEPHONE: 615-532-4528 FAX: 615-313-3196  
TTY: 1-800-270-1349  
[www.state.tn.us/humanserv/](http://www.state.tn.us/humanserv/)

**BILL HASLAM**

GOVERNOR

**DANIELLE W. BARNES**

COMMISSIONER

May 4, 2017

Peggy Crague, Owner  
Kidz Kastle Child Care Center, Inc.  
104 Cherokee Road  
Hendersonville, Tennessee 37075

Dear Ms. Crague:

The Department of Human Services (DHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Kidz Kastle Child Care Center, Inc. (Sponsor), Application Agreement number 00-361, on March 20, 2017. We reviewed the sponsor's records of reimbursements and expenditures for January 2017. The purpose of this review was to determine if the sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

**Background**

CACFP sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch, supper and supplements meals served. Meals served by participating sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP sponsors report the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements and observed a meal service. In addition, we observed a meal service during our site visit on March 20, 2017.

Our review of the Sponsor's records for January 2017 disclosed the following:

- 1. The number of participants claimed in the free, reduced-price, and paid categories was incorrect**

**Condition**

The Claim for Reimbursement for the test month reported seven participants in the free category, 24 participants in the reduced-price category, and 43 participants in the paid category. However, our review of the Sponsor's records verified there were 19 participants in the free

category, zero participants in the reduced-price category, and 55 participants in the paid category. The differences were based on the following application and reporting errors:

- There was one participant classified in the free category and five participants classified in the reduced-price category that had applications that were missing the participants' names. These six participants were reclassified as paid.
- There were three participants claimed in the free category and one participant claimed in the reduced-price category that had applications without an approving authority's signature. These four participants were reclassified as paid.
- There was one participant claimed in the reduced-price category that did not meet the income or categorical requirements for this classification. This one participant was reclassified as paid.
- The sponsor did not have an application on file for a participant that was claimed in the free category. This participant was reclassified as paid.
- There were 12 participants claimed in the reduced-price category that had applications on file that qualified them for the free category. These 12 participants were reclassified as free.
- Five participants were under reported in the free category.
- Five participants were over reported in the reduced-price category.

The adjustment in the free, reduced-price and paid categories affected the claiming percentages. (See Exhibit)

This is a repeat finding from a previous report dated August 27, 2014.

#### Criteria

*Title 7 of the Code of Federal Regulations* Section 226.15(e)(2) states, "Documentation of the enrollment of each participant at centers (except for outside-school-hours care centers, emergency shelters, and at-risk afterschool care centers). All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

*Title 7 of the Code of Federal Regulations* Section 226.17(b)(8) states, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). In addition, Head Start participants need only have a Head Start statement of income eligibility or a statement of Head Start enrollment from an authorized Head Start representative, to be eligible for free meal benefits under the CACFP. Such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

The State of Tennessee Child and Adult Care Food Program Policies and Procedures Manual, page 23, states an institution must maintain, "A properly completed application for CACFP income eligibility for each enrolled participant who is determined eligible for free or reduced-price meal reimbursement."

#### Recommendation

Applications for each participant reported in the free or reduced-price categories should be accurate and kept on file. Applications should be fully completed and signed by an approving official. If parents do not want to provide the information required on the application, the child should be classified as paid.

## **2. Enrollment addendum forms were not maintained for all children**

### Condition

Four children did not have an enrollment addendum on file.

### Criteria

*Title 7 of the Code of Federal Regulations* Section 226.15(e)(2) states, "Documentation of the enrollment of each participant at centers (except for outside-school-hours care centers, emergency shelters, and at-risk afterschool care centers). All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

### Recommendation

All children claimed for CACFP reimbursement should have an enrollment addendum on file.

## **3. Insufficient quantities of milk were purchased**

### Condition

Based on the number of meals served with milk as a required component, a total of 6,038 ounces of milk were needed. However, receipts provided by the Sponsor document 4,480 ounces of milk purchased. The Sponsor was short 1,228 ounces of milk. As a result, 167 breakfast meals were disallowed. (See Exhibit)

### Criteria

*Title 7 of the Code of Federal Regulations* Section 226.14 (b) states, "In the event that the State agency finds that an institution which prepares its own meals is failing to meet the meal requirements of § 226.20, the State agency need not disallow payment or collect an overpayment arising out of such failure if the institution takes such other action as, in the opinion of the State agency, will have a corrective effect. However, the State agency shall not disregard any overpayments or waive collection action arising from the findings of Federal audits."

*Title 7 of the Code of Federal Regulations* Section 226.20 (c)(2) states, "Fluid milk, meat and meat alternatives, vegetable, fruits, and grains are required components in the lunch and supper meals."

### Recommendation

Receipts for milk purchases should be maintained. A month end inventory should be maintained to document milk carryover from one month to the next.

#### **4. Menus did not contain all required components**

##### Condition

A lunch meal must include one serving of meat or meat alternate. The lunch menu for January 20 lists milk, lasagna, apples, mashed potatoes and toast. The January 26 menu lists milk, lasagna, pineapple, mashed potatoes and bread. The sponsor was unable to provide either a CN label or product formulation statement for the commercially prepared lasagna she reported was served. As a result, 63 lunches were disallowed. (See Exhibit)

This is a repeat finding from a previous report dated August 27, 2014.

##### Criteria

*Title 7 of the Code of Federal Regulations* Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20. For-profit child care centers may not claim reimbursement for meals served to children in any month in which less than 25 percent of the children in care (enrolled or licensed capacity, whichever is less) were eligible for free or reduced price meals or were title XX beneficiaries. However, children who only receive at-risk afterschool snacks and/or at-risk afterschool meals must not be included in this percentage. Menus and any other nutritional records required by the State agency shall be maintained to document compliance with such requirements."

The USDA Crediting Foods in the Child and Adult Care Food Program, page 62, states, "When crediting such products as chili-macs, pizzas, pot pies, sloppy Joes, and raviolis toward the meat/meat alternate component, the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a sales person) that shows how the crediting has been determined. Remember that only a CN-labeled product carries a warranty that protects against financial audit claims. See the sample formulation statement on page 73 with required information and documentation."

##### Recommendation

The sponsor should implement the following:

- The sponsor should keep copies of commercially prepared food CN labels or Product Formulation Statements on file and follow the recommended serving size/equivalents listed on the label

#### **5. An inventory of food and non-food items was not maintained**

##### Condition

The Sponsor did not maintain a monthly inventory of food and non-food items purchased with CACFP funds.

##### Criteria

The USDA Independent Child Care Centers Handbook, page 56, states, "Many State agencies require the calculation of the "cost of food used" at the end of each month. In this case, monthly food inventory records must be maintained.

Part 10 of this guidance includes a link to the National Food Service Management Institute Inventory Management Workbook and the FNS Instruction 796-2, Rev. 4 (Exhibit G, Suggested Format for Inventory Reconciliation and Exhibit H, Suggested Format for Inventory Record). While geared for small school food service systems, these resources provide valuable information that can be used by child care centers in keeping effective inventory systems. Other State agencies may, however, require an inventory to be taken once a year so centers can make adjustments in the cost of food on an annual basis. In this case, the same procedure as for the monthly inventory would be followed, but only once a year."

The State of Tennessee Child and Adult Care Food Program Policies and Procedures Manual, page 204, states, "The institution must perform the following: maintain records identifying all of its food service activities; retain all non-profit food service revenue in a restricted account; Use the non-profit food service account only for allowable costs; correct any deficiencies identified by the TDHS; and implement corrective action when TDHS determines an excessive non-profit food service account balance exists; since allowable food costs is to be determined by the net cost of food used and not the cost of all food purchased, food purchases must be reconciled to the cost of the food actually used; and complete an inventory of non-food supplies and office supplies purchased but not used at the end of the program year."

#### Recommendation

The Sponsor should ensure an inventory is completed at the end of each month and an end of year reconciliation is completed.

### **6. Children over two years of age were served whole milk**

#### Condition

During the observed lunch service, all children in the classroom of two and three years old were served whole milk.

#### Criteria

*Title 7 of the Code of Federal Regulations* Section 226.20 (a)(1) states, "Fluid milk must be served as a beverage or on cereal, or a combination of both, as follows:

- (i) Children 1 year old. Children one year of age must be served unflavored whole milk.
- (ii) Children 2 through 5 years old. Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk.
- (iii) Children 6 years old and older. Children six years old and older must be served unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk."

#### Recommendation

Food service staff should document the ages of children and ensure those three and older are served skim or 1% milk.

## Disallowed Meals Cost

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed meals cost of \$436.96.

## Corrective Action

Kidz Kastle Child Care Center, Inc. must complete the following actions within 30 days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim(s) submitted for each site for January 2017, which contains the verified claim data from the enclosed exhibit. A copy of the claim form is attached for your use;
- Remit a check payable to the ***Tennessee Department of Human Services*** in the amount of \$436.96 for recovery of the amounts disallowed in this report. **Please return the attached billing notice with your check;** and
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

[AuditServices.CAPS.DHS@tn.gov](mailto:AuditServices.CAPS.DHS@tn.gov)

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director  
Child and Adult Care Food Program  
8th Floor Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243  
[Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim within 30 business days from the date of this report. If the revised claim is not completed by the 30 business - day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program  
Fiscal Services  
11th Floor, Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243

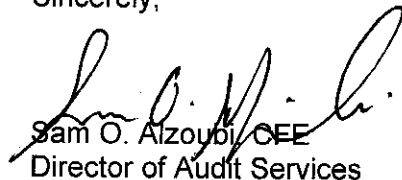
In accordance with the federal regulation found at 7 *CFR Part 226.6 (k)*, your institution may appeal the overpayment identified by the monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

Tennessee Department of Human Services  
Appeals and Hearings Division, Clerk's Office  
P.O. Box 198996  
Nashville, TN 37219

If the Institution decides to appeal the amount of disallowed administrative and meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or [Jackie.D.Yokley@tn.gov](mailto:Jackie.D.Yokley@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibits

cc: Paula Crague, Director, Kidz Kastle Child Care Center, Inc.  
Allette Vayda, Director, Child and Adult Care Food Programs  
Brian Anthis, Program Coordinator, Child and Adult Care Food Program  
Constance Moore, Program Specialist, Child and Adult Care Food Program  
Marty Widner, Program Specialist, Child and Adult Care Food Program  
Comptroller of the Treasury, State of Tennessee

**Exhibit:**

**Sponsor: Kidz Kastle Child Care Center, Inc.**

**Review Month/Year: January 2017**

**Total Meal Reimbursement Received: \$1,608.04**

<b>Site Meal Service Activity and Monitor Reconciliation</b>	<b>Reported on Claim</b>	<b>Reconciled Meals to Meal Counts Sheets</b>
Total Number of Days Food Served	21	21
Percentage of Participants in the Free or Reduced-price Category	XXXXXX	26%
Number of Breakfasts Served	495	328
Number of Lunches Served	601	538
Number of Supplements Served	1,013	1,013
Number of Participants in Free Category	7	19
Number of Participants in Reduced Category	24	0
Number of Participants in Paid Category	43	55
Total Number of Participants	74	74
Total Amount of Eligible Food Costs	XXXXXXXX	\$1,408.90
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$1,614.26





**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

AUDIT SERVICES  
CITIZENS PLAZA BUILDING  
400 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-532-4528 FAX: 615-741-4165  
TTY: 1-800-270-1349  
[www.tn.gov/humanservices](http://www.tn.gov/humanservices)

**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

May 4, 2017

Peggy Crague, Owner  
Kidz Kastle Child Care Center, Inc.  
104 Cherokee Road  
Hendersonville, Tennessee 37075

**Notice of payment due to findings disclosed in the monitoring report dated May 4, 2017,  
for Child and Adult Care Food Program (CACFP).**

Institution Name:	Kidz Kastle Child Care Center, Inc.
Institution Address:	104 Cherokee Road, Hendersonville, Tennessee 37075
Agreement Numbers:	00-361
Amount Due:	\$436.96
Due Date:	June 5, 2017

Based on the monitoring report issued on May 4, 2017, by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which requires Kidz Kastle Child Care Center, Inc. to reimburse the Department of Human Services unallowed cost in the amount of \$436.96.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$436.96 by the due date to:

**Fiscal Services 11<sup>th</sup> Floor  
Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243-1403  
Tennessee Department of Human Services**

Please note that the disallowed meals cost / overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services- Food Programs- CACFP & SFSP at (615) 313-3769 or [Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)

Thank you for your attention

**Corrective Action Plan for Monitoring Findings**

**Instructions:** Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.

**Please return ALL pages of the completed Corrective Action Plan form.**

**Section A. Institution Information**

Name of Sponsor/Agency/Site: Kidz Kastle Child Care Center, Inc.	Agreement No. 00361	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
--	------------------------	--

Mailing Address: 104 Cherokee Rd. Hendersonville, TN 37075

**Section B. Responsible Principal(s) and/or Individual(s)**

Name and Title: Peggy Crague, Owner	Date of Birth:     /     /
-------------------------------------	----------------------------

**Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan**

Monitoring Report: 5/4/17	Corrective Action Plan: 5/4/17
---------------------------	--------------------------------

**Section D. Findings**

Findings:

1. The number of participants claimed in the free, reduced-price, and paid categories was incorrect.
2. Enrollment addendum forms were not maintained for all children
3. Insufficient quantities of milk were purchased
4. Menus did not contain all required components
5. An inventory of food and non-food items was not maintained
6. Children over two years of age were served whole milk

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

**Measure No. 1: The number of participants claimed in the free, reduced-price, and paid categories was incorrect.**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

---

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

Where will the Corrective Action Plan documentation be retained? Please identify below:

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

\_\_\_\_\_  
\_\_\_\_\_  
**Measure No.2: Enrollment addendum forms were not maintained for all children**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Where will the Corrective Action Plan documentation be retained? Please identify below:

\_\_\_\_\_  
\_\_\_\_\_

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

**Measure No. 3: Insufficient quantities of milk were purchased**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

Where will the Corrective Action Plan documentation be retained? Please identify below:

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

**Measure No. 4: Menus did not contain all required components**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

Where will the Corrective Action Plan documentation be retained? Please identify below:

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

**Measure No. 5: An inventory of food and non-food items was not maintained**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

---



---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

Where will the Corrective Action Plan documentation be retained? Please identify below:

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

**Measure No.6: Children over two years of age were served whole milk**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

---

---

---

---

---

---

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

---

---

---

---

---

Where will the Corrective Action Plan documentation be retained? Please identify below:

---

---

---

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

---

---

---

---

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: \_\_\_\_\_

Date:    /    /

Signature of Authorized TDHS Official: \_\_\_\_\_

Date:    /    /

## **APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES**

### **Appeal Procedures**

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16<sup>th</sup> calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

Appeal Procedures for Child and Adult Care Food Program-Institutions  
Revised March 2017

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

**Appeal Procedures for Child and Adult Care Food Program-Institutions**  
**Revised March 2017**

continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services**  
**Division of Appeals and Hearings**  
**PO Box 198996, Clerk's Office**  
**Nashville, TN 37219-8996**  
**Fax: (615) 248-7013 or (866) 355-6136**  
**E-mail: AppealsClerksOffice.DHS@tn.gov**

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.